

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2031

Introduced by Assembly Member Dahle

February 20, 2014

An act to amend Section 4629.5 of the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2031, as amended, Dahle. Forest resources: timber assessment.

Existing law imposes an assessment on a person who purchases from a retailer a lumber product or an engineered wood product for storage, use, or other consumption in this state, at the rate of 1% of the sales price. Existing law requires the retailer, as defined according to existing tax laws, to charge the person the amount of the assessment as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser. Existing law requires the retailer to collect the assessment from the person at the time of sale, as provided.

This bill would, for purposes of the above provisions, exclude from the definition of “retailer” a retailer who has total sales of qualified lumber products and engineered wood products of less than ~~\$5,000~~ \$25,000 during the previous calendar year. *The bill would require an excluded retailer to provide a notice to the purchaser of the purchaser's obligation to remit the assessment to the State Board of Equalization.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4629.5 of the Public Resources Code is amended to read:

4629.5. (a) (1) There is hereby imposed an assessment on a person who purchases a lumber product or an engineered wood product for storage, use, or other consumption in this state, at the rate of 1 percent of the sales price.

(2) A retailer shall charge the person the amount of the assessment as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser.

(3) The retailer shall collect the assessment from the person at the time of sale, and may retain an amount equal to the amount of reimbursement, as determined by the State Board of Equalization pursuant to regulations, for any costs associated with the collection of the assessment, to be taken on the first return or next consecutive returns until the entire reimbursement amount is retained. For purposes of this paragraph, the State Board of Equalization may adopt emergency regulations pursuant to Section 11346.1 of the Government Code. The adoption of any regulation pursuant to this paragraph shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, and general welfare.

(b) The retailer shall separately state the amount of the assessment imposed under this section on the sales receipt given by the retailer to the person at the time of sale.

(c) The State Board of Equalization shall administer and collect the assessment imposed by this section pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) with those changes as may be necessary to conform to this article. For purposes of this section, the references in the Fee Collection Procedures Law to “fee” shall include the assessment imposed by this section, and references to “feepayer” shall include a person required to pay the assessment imposed by the article, which includes the retailer.

(d) (1) The assessment is required to be collected by a retailer and any amount unreturned to the person who paid an amount in excess of the assessment, but was collected from the person under

1 the representation by the retailer that it was owed as an assessment,
2 constitutes debts owed by the retailer to this state.

3 (2) A person who purchases a lumber product or an engineered
4 wood product for storage, use, or other consumption in this state
5 is liable for the assessment until it has been paid to this state, except
6 that payment to a retailer relieves the person from further liability
7 for the assessment. Any assessment collected from a person that
8 has not been remitted to the State Board of Equalization shall be
9 a debt owed to the state by the retailer required to collect and remit
10 the assessment. This part does not impose any obligation upon a
11 retailer to take any legal action to enforce the collection of the
12 assessment imposed by this section.

13 (3) *An excluded retailer, as described in subparagraph (B) of*
14 *paragraph (2) of subdivision (g), shall provide a notice to a*
15 *purchaser of qualified lumber products or engineered wood*
16 *products regarding the purchaser's obligation to remit the*
17 *assessment to the State Board of Equalization. Section 4601 does*
18 *not apply to this paragraph.*

19 (e) Except as provided in paragraph (3) of subdivision (a), the
20 State Board of Equalization may prescribe, adopt, and enforce
21 regulations relating to the administration and enforcement of this
22 section, including, but not limited to, collections, reporting, refunds,
23 and appeals.

24 (f) (1) The assessment imposed by this section is due and
25 payable to the State Board of Equalization quarterly on or before
26 the last day of the month next succeeding each quarterly period.

27 (2) On or before the last day of the month following each
28 quarterly period, a return for the preceding quarterly period shall
29 be filed with the State Board of Equalization using electronic
30 media, in the form prescribed by the State Board of Equalization.
31 Returns shall be authenticated in a form or pursuant to methods,
32 as prescribed by the State Board of Equalization.

33 (g) For purposes of this section, all of the following shall apply:

34 (1) "Purchase" has the same meaning as that term is defined in
35 Section 6010 of the Revenue and Taxation Code.

36 (2) (A) "Retailer" means a retailer, as that term is defined in
37 Section 6015 of the Revenue and Taxation Code. ~~A~~

38 (B) A retailer with de minimis sales of qualified lumber products
39 and engineered wood products of less than ~~five thousand dollars~~
40 ~~(\$5,000)~~ *twenty-five thousand dollars (\$25,000)* during the previous

1 calendar year~~are is not retailers~~ *a retailer* for purposes of this
2 section, *except as provided in paragraph (3) of subdivision (d)*.

3 (3) “Sales price” has the same meaning as that term is defined
4 in Section 6011 of the Revenue and Taxation Code.

5 (4) “Storage” has the same meaning as that term is defined in
6 Section 6008 of the Revenue and Taxation Code.

7 (5) “Use” has the same meaning as that term is defined in
8 Section 6009 of the Revenue and Taxation Code.

9 (h) (1) A person required to pay the assessment imposed under
10 this article shall register with the State Board of Equalization.
11 Every application for registration shall be made in a form
12 prescribed by the State Board of Equalization and shall set forth
13 the name under which the applicant transacts or intends to transact
14 business, the location of the person’s place or places of business,
15 and any other information that the State Board of Equalization
16 may require. An application for registration shall be authenticated
17 in a form or pursuant to methods as may be prescribed by the State
18 Board of Equalization.

19 (2) An application for registration filed pursuant to this section
20 may be filed using electronic media as prescribed by the State
21 Board of Equalization.

22 (3) Electronic media includes, but is not limited to, computer
23 modem, magnetic media, optical disc, facsimile machine, or
24 telephone.